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TITLE: Legal and Ethical Dimensions of Willful Exposure to HIV

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Behavioral research indicates that a substantial proportion of people who know they are infected with HIV sometimes engage in unsafe sexual or needle sharing behavior without informing their partners of their infection. Reducing this behavior is an important prevention priority, and a difficult challenge for both public health professionals and infected people themselves. Stigma, depression, denial, fear of rejection, poor social support for safer behavior, and lack of effective interpersonal strategies for disclosure can all inhibit safer sexual behavior. Educational and psychosocial interventions can reduce unsafe sexual behavior and help individuals and communities take responsibility for safe decisions and safe options, but counseling or treating a person who is exposing others to HIV can be troubling for health professionals. This presentation considers the concept of "willful exposure to HIV," and the role of criminal law in public health efforts to address the behavior of people who expose others to HIV.

At least 29 states have laws that specifically criminalize knowing or intentional exposure of another to HIV, and more states are considering such legislation. The behavior may also be punished under other criminal law headings, including attempted murder and assault. Criminal law has been deployed in several recent, well-publicized instances, most notably the case of NuShawn Williams in New York.

Criminal law and public health deploy quite different methods to accomplish rather different purposes. Public health programs are designed to *prevent HIV* through the *systematic deployment of interventions* designed to *change the behaviors* that pose the *highest risk* to the population. Criminal law is applied to a small number of *random cases* to *punish and deter* wrongdoing through action taken against individuals deemed *morally culpable*. These differences, and other contextual factors, make criminal law a poor tool of HIV prevention, and suggest that public health professionals develop adequate professional strategies and legal tools of their own to address cases where intervention is required to prevent an immediate and significant risk to public health.

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